

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KEITH DURR #614438,

Plaintiff,

v.

EDWIN VANDERWIEL, et al.,

Defendants.

CASE No. 1:23-cv-1286

HON. ROBERT J. JONKER

ORDER APPROVING AND ADOPTING
REPORT AND RECOMMENDATION

The Court has reviewed the Magistrate Judge’s Report and Recommendation (ECF No. 32) filed on March 24, 2025. Plaintiff filed what he styled a “Motion for Reconsideration” on April 7, 2025 (ECF No. 33) and a “Motion for Objections” on April 11, 2025 (ECF No. 34), which the Court construes together as Objections to the Magistrate Judge’s Report and Recommendation.

Under the Federal Rules of Civil Procedure, where, as here, a party has objected to portions of a Report and Recommendation, “[t]he district judge . . . has a duty to reject the magistrate judge’s recommendation unless, on de novo reconsideration, he or she finds it justified.” 12 WRIGHT, MILLER, & MARCUS, FEDERAL PRACTICE AND PROCEDURE § 3070.2, at 381 (2d ed. 1997).

Specifically, the Rules provide that:

The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

FED. R. CIV. P. 72(b)(3); *see also* 28 U.S.C. § 636(b)(1)(C). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981).

The Magistrate Judge recommends that the Court grant Defendants' Motion for Summary Judgment (ECF No. 24) on the basis of exhaustion and dismiss Plaintiff's claims without prejudice. After de novo review, the Court overrules Plaintiff's objections and adopts the Magistrate Judge's Report and Recommendation. The Magistrate Judge carefully and thoroughly considered the evidentiary record, the parties' arguments, and the governing law.

In both of his objection papers, Plaintiff simply rehashes arguments the Magistrate Judge appropriately addressed and rejected in her Report and Recommendation. There is no dispute of material fact that Plaintiff failed to exhaust his administrative remedies for each of his claims. Summary judgment in favor of each defendant is appropriate for the reasons described in the Report and Recommendation.

ACCORDINGLY, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge (ECF No. 32) is **APPROVED** and **ADOPTED** as the opinion of the Court.

IT IS FURTHER ORDERED that Defendants' Motion for Summary Judgment (ECF No. 24) is **GRANTED**, dismissing **without prejudice** Plaintiff's claims each of the defendants.

Dated: April 15, 2025

/s/ Robert J. Jonker
ROBERT J. JONKER
UNITED STATES DISTRICT JUDGE